

January 27, 2005

Frank Batista
15 Whitehead Road
Bridgewater, New Jersey 08807

Re: **Order to Cease and Desist Impersonating a Certified New Jersey
Emergency Medical Technician-Basic**
Investigation Control #04-C-024

Dear Mr. Batista:

The New Jersey Department of Health and Senior Services is vested with the responsibility of carrying out the provisions of the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1, et seq., which was enacted, in part, to ensure that all hospital and related health care services rendered in the State of New Jersey are of the highest quality. As defined at N.J.S.A. 26:2H-2b, health care services include any pre-hospital care rendered by paramedical and ambulance services. In furtherance of the objectives set forth in the statute, the Department of Health and Senior Services has adopted regulations that govern the training and certification of the Emergency Medical Technicians (EMTs) who staff those paramedical and ambulance services. See N.J.A.C. 8:40A-1.1, et seq.

It has come to the attention of this Department's Office of Emergency Medical Services (OEMS) that you have impersonated a certified EMT-Basic (EMT-B). Specifically, during an unannounced survey of First Call Medical Transport, OEMS staff learned that you worked as a crewmember aboard a licensed basic life support (BLS) ambulance on two days following June 30, 2004, the date that your New Jersey EMT-B certification expired. In addition, OEMS has confirmed that you are not certified through the National Registry of EMTs or by any state or jurisdiction whose EMT-B certifications are recognized or reciprocated in the State of New Jersey.

N.J.S.A. 26:2K-42b. states that "A person shall not impersonate or refer to himself as an EMT-D unless the person is authorized to do so pursuant to this act."

N.J.S.A. 26:2K-44 states, in relevant part, that "A person who violates the provisions of this act is subject to a penalty of \$200 for the first offense and \$500 for each subsequent offense."

N.J.A.C. 8:40A-10.4(a) states, in relevant part, that “No person shall impersonate, refer to himself or herself as, act in the capacity of or perform the duties of, an EMT-Basic or EMT-Instructor unless he or she is certified or recognized by the Department in accordance with the standards set forth in this chapter.

1. Upon notice or discovery that a person is impersonating, referring to himself or herself as, or acting in the capacity of an EMT-Basic without having first obtained the required EMT-Basic or EMT-Instructor certification or recognition or after revocation of an EMT-Basic or EMT-Instructor certification previously issued by the Department, the Commissioner or his or her designee may issue an order directing that person to immediately cease and desist.”

N.J.A.C. 8:40A-10.4(a)2 states, in relevant part, that “In addition to the issuance of an order to cease and desist, the Commissioner or his or her designee may:

i. Impose a monetary penalty in the amount of \$200.00 per calendar day for each day that a person is found to have impersonated, referred to him or herself as, or acted in the capacity of, an EMT-Basic or EMT-Instructor;

ii. Refuse to issue or renew any subsequent EMT-Basic and/or EMT-Instructor certifications.”

N.J.A.C. 8:40A-10.2(f) states, in relevant part, that “Monetary penalties may be imposed in the amount of \$200.00 per calendar day, per infraction.

1. Violations shall be considered as a single, different occurrence for each calendar day the violation occurs or remains uncorrected.

2. Subsequent violations of the same type may be subject to a penalty of \$500.00 per calendar day, per infraction.”

Therefore, you are hereby **ordered to immediately CEASE AND DESIST** any further representations that you are a certified New Jersey EMT-Basic. You are further prohibited from acting in the capacity of an EMT-Basic. Additionally, you are hereby ordered to immediately surrender any and all invalid and/or fraudulent certification credentials to the Office of Emergency Medical Services. Failure to abide by this order to cease and desist may result in additional fines and penalties as provided for by law. You may apply for re-certification as an EMT-Basic after completing the required continuing education credits.

Consistent with the above referenced authority, you are hereby assessed a \$200 monetary penalty for acting in the capacity of a certified EMT-Basic on July 27, 2004 and a \$500 monetary penalty for again acting in the capacity of a certified EMT-Basic on August 19, 2004. The total penalty amount for the above referenced violations is \$700.

In determining that monetary penalties are indicated in this case, this agency has considered that as manager of First Call Medical Transport (First Call), you are responsible for ensuring that First Call conducts its business in accordance with all applicable laws, rules and regulations. This agency has also considered that, as manager, you permitted Eduardo Rivera to staff First Call's vehicles on 25 occasions after Mr. Rivera's EMT-Basic certification had expired. These and other violations were determined during an unannounced survey of First Call's principle place of business on September 16, 2004.

A certified check or money order in the amount of \$700 made payable to "Treasurer, State of New Jersey," must be submitted within 30 days from the date of this Notice. In accordance with N.J.S.A. 26:2K-44 and N.J.A.C. 8:40A-10.2(f)3, failure to pay this penalty may result in a summary civil proceeding in the Superior Court of New Jersey pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1, et seq.), refusal by the Department to issue a renewal or certification and/or any such other action as authorized by law. Payment should be forwarded to:

New Jersey Department of Health & Senior Services
Office of Emergency Medical Services
P.O. Box 360
Trenton, NJ 08625-0360
Attn: Ms. Karen Halupke, Director

This order to cease and desist shall constitute a Final Agency Decision. As such, pursuant to New Jersey Court Rules 2:2-3 and 2:4-1, you may appeal from this Final Agency Decision within 45 days to the following authority:

New Jersey Superior Court-Appellate Division
Richard J. Hughes Justice Complex
P.O. Box 006
Trenton, New Jersey 08625-0006

Please note that this order to cease and desist is intended to amend the Department's order to cease and desist dated November 1, 2004, which was appealed by Notice of Appeal to the Superior Court of New Jersey, Appellate Division on or about December 20, 2004.

If you have any questions, please do not hesitate to contact Mr. Samuel Stewart of my office at (609) 633-7777.

Sincerely,

Karen Halupke, RN, M.Ed.
Director

c: Ivan J. Cruz, President, First Call Medical Transport
Michele Stark, OLRA
Samuel Stewart, Esq., OEMS
Charles McSweeney, OEMS
Kim Jenkins, D.A.G.

SENT VIA REGULAR U.S. MAIL AND CERTIFIED MAIL #7001 0320 0006 1159 8438
RETURN RECEIPT REQUESTED